IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5440 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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K P PADWALA - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MRS KETTY A MEHTA for Petitioner(s) : 1,
Mr. Hiren Modi, Asst.GOVERNMENT PLEADER for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH
Date : 29/11/2006

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India, the petitioner has challenged the order passed by the Collector, Sabarkantha dated 14.7.1997 reverting the

petitioner from the post of Deputy Mamlatdar.

2. It appears that the petitioner who belongs to Scheduled Tribe community was promoted to the post of Deputy Mamlatdar on purely temporary basis pursuant to the order passed by the Collector, Sabarkantha dated 13th March 1996. However, one post was reduced and therefore considering the Roster point by order dated 14.7.1997 the petitioner was sent to his original post which came to be challenged by the petitioner by way of the present Special Civil Application. During the pendency of the petition, there was an interprotection in favour of the petitioner and therefore the petitioner continued in the post of Deputy Mamlatdar.

3. Shri Hiren Modi, learned AGP under instructions from one Shri D.A. Makwana from the office of Collector, Sabarkantha, has submitted that at present the petitioner is serving as

Circle Officer, Akrund, Office of Mamlatdar, Bayed in the cadre of Deputy Mamlatdar; at the relevant time due to non-availability of vacant post in the cadre of Deputy Mamlatdar the question of reversion arose; that thereafter 28 Deputy Mamlatdars were promoted in the cadre of Mamlatdars; the post of Deputy Mamlatdar and/or in the cadre of Deputy Mamlatdar was available and therefore there is no question of reverting the petitioner now.

4. It is the contention on behalf of the petitioner that his case is squarely covered by the decision of this Court in the case of ***R.K. Prajapati & Others Vs. State of Gujarat and Others***, reported in ***33(2) GLR Page 1422.*** Be that as it may, in view of the subsequent development where the post in the cadre of Deputy Mamlatdar having fallen vacant on promotion of 28 Deputy Mamlatdars to the post of Mamlatdar and/or post of Deputy Mamlatdar and/or in the cadre of Deputy

Mamlatdar was available, there is no question of reverting the petitioner. In view of the above, the interim relief granted earlier is confirmed and/or ordered to be converted into final order. It is directed that the petitioner shall not be reverted from the cadre of Deputy Mamlatdar. Even otherwise, considering the facts stated above, there is no cause now for reverting the petitioner from the cadre of Deputy Mamlatdar. With these, the present Special Civil Application is disposed of. No costs.

[M.R. Shah, J.]

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